

**UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA  
WINSTON-SALEM DIVISION**

FEDERAL TRADE COMMISSION,  
STATE OF CALIFORNIA, STATE OF  
COLORADO, STATE OF ILLINOIS,  
STATE OF INDIANA, STATE OF  
IOWA, STATE OF MINNESOTA,  
STATE OF NEBRASKA, STATE OF  
OREGON, STATE OF TENNESSEE,  
STATE OF TEXAS, STATE OF  
WASHINGTON, and STATE OF  
WISCONSIN,

Plaintiffs,

v.

SYNGENTA CROP PROTECTION AG,  
SYNGENTA CORPORATION,  
SYNGENTA CROP PROTECTION,  
LLC, and CORTEVA, INC.,

Defendants.

Case No. 1:22-cv-00828-TDS-JEP

**PLAINTIFF FEDERAL TRADE  
COMMISSION'S MOTION TO FILE  
PORTIONS OF PLAINTIFFS'  
MEMORANDUM IN OPPOSITION  
TO DEFENDANTS' MOTIONS TO  
DISMISS TEMPORARILY UNDER  
SEAL**

Plaintiff Federal Trade Commission ("FTC") respectfully moves pursuant to LR 5.4(c)(1)(a) and LR 5.4(c)(4)(b) to file portions of Plaintiffs' Memorandum in Opposition to Defendants' Motions to Dismiss (Doc. 110) ("the Memorandum") temporarily under seal for fourteen days.

The FTC files this motion to comply with its regulations governing the treatment of confidential information submitted to the FTC in pre-complaint investigations and to give Defendants the opportunity to consider whether to ask the Court to seal portions of the Memorandum on a permanent basis. The FTC is not the party claiming confidentiality with respect to information that is the subject of this Motion. The FTC conducted a pre-

Complaint investigation during which it received information from Defendants that they designated as confidential pursuant to federal statute and FTC rules. *See* 15 U.S.C. § 57b-2; 16 C.F.R. § 4.10. Certain information that Defendants designated as confidential during the FTC’s investigation may be referenced in the Memorandum. FTC regulations require the FTC to afford persons who submit confidential information “an opportunity to seek an appropriate protective order” prior to disclosing such information. 16 C.F.R. § 4.10(g). The FTC has, accordingly, filed a redacted version of the Memorandum on the public docket, filed a sealed version of the Memorandum with the redacted information highlighted, and filed this Motion to provide an opportunity for Defendants to seek appropriate relief from the Court.

The information in the Memorandum that the FTC requests be temporarily sealed may disclose the following non-public information as to which Defendants requested confidential treatment during the FTC’s investigation:

- details about the terms of and strategy underlying the Defendants’ “loyalty” programs at issue in this case;
- information about Defendants’ business decisions, strategies, and plans;
- and
- quotations from Defendants’ internal documents about these subjects.

The FTC will provide Defendants with notice of their respective information being filed under seal.

A proposed order is attached.

Dated: February 10, 2023

Respectfully submitted,

/s/ James H. Weingarten  
James H. Weingarten (DC Bar No. 985070)  
Joseph R. Baker  
Wesley G. Carson  
Elizabeth A. Gillen  
Edward H. Takashima  
FEDERAL TRADE COMMISSION  
600 Pennsylvania Avenue, NW  
Washington, DC 20580  
Telephone: (202) 326-3570  
Email: jweingarten@ftc.gov

*Attorneys for Plaintiff Federal Trade  
Commission*